

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

STRIKE 3 HOLDINGS, LLC,	:	Case No. 2:23-cv-2397
Plaintiff,	:	
	:	Judge Timothy S. Black
vs.	:	
	:	
JOHN DOE subscriber assigned IP	:	
Address 173.88.122.175,	:	
Defendant.	:	

**ORDER REGARDING DEFENDANT’S MOTION TO QUASH
AND SEEKING A PROTECTIVE ORDER**

This civil case is before the Court on Defendant’s *pro se* motion to quash and for a protective order. (Doc. 9).

On August 22, 2023, this Court issued an Order granting Plaintiff’s *ex parte* motion to serve a third-party subpoena prior to the Rule 26(f) conference. (Doc. 7). Specifically, the Order stated that:

Plaintiff may serve a Rule 45 subpoena on the Internet Service Provider (“ISP”) associated with the identified IP address, to obtain information to identify Defendant’s full name and residential address. Plaintiff is not permitted to seek or obtain John Doe’s email addresses or telephone numbers. Plaintiff shall attach a copy of this Order to the subpoena.

(*Id.* at 2). The Order further permitted Defendant to file a motion to quash and/or to seek a Protective Order to proceed anonymously. (*Id.*)¹ Additionally, the Order allowed for the motion seeking anonymity to be filed under seal. (*Id.*)

¹ A motion for a protective order must be filed within 30 days of Defendant receiving notice from the ISP. (Doc. 7 at 2). Here, Defendant has not disclosed the date upon which notice was given. However, the Court will assume, for the time being, that Defendant’s motion is timely.

Here, as permitted by the Court's Order, Defendant moves to quash Plaintiff's subpoena. (Doc. 9). Defendant further requests that, "[i]n the event that the Court does not grant [the motion to quash], [Defendant be permitted] to proceed anonymously in this litigation and a protective order be issued to prevent the disclosure of [Defendant's] identity." (*Id.* at 4). Notably, however, Defendant's motion includes his full name, residential address, email, and telephone number. (*Id.* at 1, 5, 16).

In order to allow Defendant's motion to quash and motion for protective order to be litigated without disclosure of the precise information Defendant seeks to protect, the Court has instructed the Clerk's Office to file Defendant's motion **UNDER SEAL** and to identify Defendant merely as "John Doe" on the public docket, without the inclusion of any identifying information. The Court further **ORDERS** as follows:

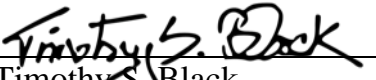
- (1) Defendant's unredacted *pro se* motion **SHALL** remain under seal and **SHALL NOT** be disclosed to Plaintiff or Plaintiff's counsel, unless and until this Court instructs otherwise;
- (2) A **redacted** copy of Defendant's motion shall be filed on the public docket, in order to permit Plaintiff, through counsel, to respond to Defendant's motion;
- (3) Pursuant to the Court's prior Order, the ISP **SHALL preserve** any subpoenaed information pending the resolution of Defendant's motion. (Doc. 7 at 2). The ISP **SHALL NOT** disclose the subpoenaed information unless and until the ISP receives an Order from this Court instructing otherwise; and
- (4) Plaintiff's counsel **SHALL** immediately provide a copy of this Order to the ISP. Plaintiff's counsel **SHALL** further email the Court (Black_Chambers@ohsd.uscourts.gov) to confirm that a copy of this Order was served on the ISP, as required.

The Court further establishes the following briefing schedule and procedures as to Defendant's motion to quash and for a protective order:

- Plaintiff's response in opposition shall be filed by **October 19, 2023**. Immediately upon filing, Plaintiff's counsel **shall** further email a copy of the filed response to the Court at Black_Chambers@ohsd.uscourts.gov, and the Court will effectuate service on Defendant; and
- Defendant's reply (if any) shall be emailed to the Court for filing at Black_Chambers@ohsd.uscourts.gov by **November 6, 2023**. Upon receipt of Defendant's reply, the Court will file an unredacted copy **under seal** and will further file a redacted copy on the public docket.

IT IS SO ORDERED.

Date: 9/28/2023



Timothy S. Black
United States District Judge